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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 JASON BROWN,

11 Petitioner,

No. CIV S 05-0866 FCD EFB P

12 vs.

13 DIANA K. BUTLER, et al.,

14 Respondents.

ORDER

15 \_\_\_\_\_/  
16 Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas  
17 corpus. *See* 28 U.S.C. §2254. He timely filed a notice of appeal of this court's November 29,  
18 2007, order dismissing this action. Before petitioner can appeal this decision, a certificate of  
19 appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

20 A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the  
21 applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C.  
22 § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues  
23 satisfy the required showing or must state the reasons why such a certificate should not issue.  
24 Fed. R. App. P. 22(b).

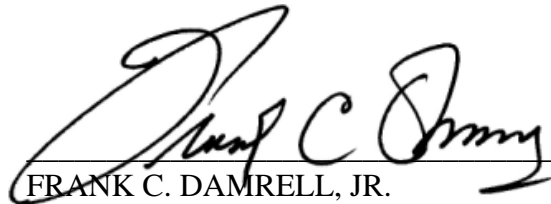
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1 For the reasons set forth in the magistrate judge's October 18, 2007, findings and  
2 recommendations, petitioner has not made a substantial showing of the denial of a constitutional  
3 right. Accordingly, a certificate of appealability should not issue in this action.

4 IT IS SO ORDERED.

5 DATED: January 18, 2008.

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8 FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE  
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